IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6538 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJUBEN D DESAI

Versus

COLLECTOR OF VALSAD

Appearance:

MRS KETTY A MEHTA for Petitioner No. 1

MS NANDINI JOSHI, AGP for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 29/07/2002

ORAL JUDGEMENT

The petitioner was appointed as an ad-hoc clerk in the Office of the Collector, Valsad on 1st November, 1985 without following the procedure prescribed by Recruitment Rules namely, through the District Selection

Committee. According to her, she was given artificial breaks up to 30th July, 1986 and each month, she was given order of appointment for 29 days. No appointment was given after 30th July, 1986. It appears that other clerks who had been appointed on ad-hoc basis filed petitions in this court which were dismissed but the Supreme Court in Civil Appeals No.4058 of 1988 to 4064 of 1988 passed the following order on 15th November, 1988:

"Special Leave granted.

Heard learned counsels for both the parties. The only question that falls for consideration in these appeals is whether the Appellants and Respondent Nos.6 to 19 who are appointed on ad-hoc basis but nonetheless have worked some from 1993 and some from 1994 with artificial breaks as per chart annexed, should be regularised in their services though they were not appointed in accordance with the procedure prescribed by the recruitment rules, namely, through the District Selection Committee. We have considered all the facts and circumstances of the case. It seems to us just and proper that out of these Appellants and also the Respondents referred to hereinbefore, those who have not appeared as yet before the Selection Committee should be given a chance to appear before the Selection Committee and in case some of them have become age-barred, the Authority concerned will relax this age-bar and permit them to appear before the ensuing selection by the Selection Committee. Those who are qualified and selected by the Selection Committee will have their services regularised. So far as the question of continuity of service is concerned, it will be open to the authority to consider and decide the same. The authority concerned will of course leave out the artificial breaks in service for short periods.

The services of those persons who are entitled to appear before the Selection Committee will not be terminated till selection is held. With regard to the ad hoc employees who have already appeared and have not been selected they will not be entitled to appear before the Selection Committee and their services may be terminated in accordance with law.

The Appeals are disposed of accordingly. There

will be no order as to costs."

The petitioner filed the present petition on 31st August, 1990 praying for a direction to the respondents to allow her to appear before the Selection Committee for selection to the post of the Junior Clerk. She relies on the said order of the Supreme Court in which, according to her, persons similarly situated were allowed to appear before the Selection Committee. However, the present petition was filed nearly four years after her services came to an end on 30th July, 1986 and she waited for a period of almost two years after the order of the Supreme Court. It is rightly contended on behalf of the respondents that the petition suffers from the vice of delay and laches. The petition is liable to be dismissed on the ground of delay and is accordingly dismissed. Rule is discharged with no order as to costs.

(M.C. Patel, J.)

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